

## Report of the Strategic Policy Manager

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### **Subject: Planning Policy Wales on net benefit for biodiversity and ecosystems resilience & Major Development in National Parks**

#### **Purpose of Report**

1. Welsh Government want our views on the targeted policy changes to [Planning Policy Wales on net benefit for biodiversity and ecosystems resilience](#) (incorporating changes to strengthen policy on Sites of Special Scientific Interest (SSSIs), trees and woodlands and green infrastructure). There is also a proposed edit on 'major development'. The response form can be found on the web link above. Comments are to be submitted by the 31 May 2023.
2. For ease of reference two documents are attached to this report for Members: Appendix A, which sets out the text edits proposed and Appendix B, which explains the reasons for these changes.

#### **Background**

3. Targeted changes are proposed to strengthen and clarify the policy around securing a net benefit for biodiversity and the resilience of ecosystems. This includes strengthened policy on green infrastructure, the protection of SSSIs, Sites of Importance for Nature Conservation and Trees. Factual updates have been made to the protected sites policy wording and consequential changes are made to the Water and Minerals sections to reflect the net benefit for biodiversity policy.
4. Finally, a factual change is proposed in relation to National Parks. The nature of the change is described as:

*Paragraph 6.3.10 National Parks: a small change is needed to properly reflect the statutory purposes of a National Park and the ability of the National Park Authority (NPA) to protect them. It is considered that NPAs need to be able to decide what constitutes 'major' depending on local context and the particular application in question. The deletion of text is proposed to rectify this.*

5. The actual edit to the text can be found at the end of Appendix A (attached) under the heading 'Unrelated change for the purposes of accuracy'.
6. This consultation will inform an update to Planning Policy Wales later in the year.

## **Officer Appraisal**

7. Officers are liaising with Eryi and Bannau Brycheiniog National Park Authorities with the intention of submitting a joint response. Members are welcome to provide input. The aim is to receive all comments by the end of play on the 17<sup>th</sup> of May 2023 for a final response to be prepared for submission.
8. The proposals are broadly welcomed. It would be beneficial if Technical Advice Note 5 on 'Nature Conservation and Planning' was also updated to reflect these proposed changes when they are finalised.
9. **Biodiversity:** The emphasis on biodiversity enhancement is on development proposals being directly shaped by the principle of retaining and enhancing existing habitats and species as being the most cost effective and robust option for biodiversity, taking into account the benefits of a preventative approach. The changes to Planning Policy Wales are more explicit on this point by advising:  
*'Proposals that include designated sites should, as a matter of principle, be excluded from site searches. This principle also extends to those sites containing protected species and habitats which are irreplaceable and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be exceptional for development to be justifiable in such instances.'*
10. Detailed advice is also provided for applicants on what should be done when all locational and siting options for avoiding damage to biodiversity have been exhausted.
11. A green infrastructure statement (prepared by the applicant) will need to be incorporated into a Design and Access Statement.<sup>1</sup> This will be an effective way of demonstrating positive multifunctional outcomes. This proportionate approach which will focus on the larger application and is supported.
12. The consultation again confirms that where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission.
13. The consultation advises that whenever possible, accreditation under The Building with Nature Standards<sup>2</sup> should be pursued. Officers will need to

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<sup>1</sup> A Design and Access Statement is a validation requirement for Minor and Major applications, but not for householder applications ([section-7-annex-planning-applications-lists-of-validation-requirements.pdf \(gov.wales\)](#) ).

<sup>2</sup> <https://www.buildingwithnature.org.uk/standards-form>

seek advice, guidance, and training on how this can be incorporated into our working practices.

14. Green Infrastructure Assessments are also referred to as key documents. *'The Green Infrastructure Assessment should be used to develop a robust approach to maintaining and enhancing biodiversity, increasing ecological resilience and improving well-being outcomes, and should identify key strategic opportunities where the retention, maintenance, buffering, restoration, creation and connection of green features and functions would deliver the most significant benefits.'* This Authority has recently completed a Green Infrastructure Assessment with Pembrokeshire County Council (Pembrokeshire County Council were the lead).<sup>3</sup>
15. Greater weight is also ascribed to non-statutory sites that can form the core of a vital network of threatened habitats and play an essential role in maintaining, connecting, and restoring biodiversity and contribute to nature recovery and a net benefit for biodiversity. Policy 12 Local Areas of Nature Conservation or Sites of Geological Interest of Local Development Plan 2 provides a useful framework to use alongside this proposed change.
16. Guidance on peatlands is also provided. This is also covered by the Authority's Supplementary Planning Guidance on Biodiversity.<sup>4</sup>
17. The consultation advises that planning authorities should adopt appropriate, time sensitive, minimum tree canopy cover targets for their authority area to guide the protection and planting of trees. This issue is addressed in part through the development of the recently completed Green Infrastructure Assessment but will require further investigation. The Authority's supplementary planning guidance on Trees and Woodland will also assist when adopted in due course. It is currently out for consultation.<sup>5</sup>
18. The advice on compensation for tree loss is being considered to ensure the density proposed for reinstatement is appropriate.
19. It is useful to note that the proposed changes provide detailed advice on how sites that are cleared prior to commencement should be dealt with. This is quite a significant addition to policy.
20. Advice on the identification of riparian buffer zones is also consistent with the approach taken in the Green Infrastructure Assessment undertaken for Pembrokeshire.

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<sup>3</sup> [https://lucmaps.co.uk/Pembrokeshire\\_GI/](https://lucmaps.co.uk/Pembrokeshire_GI/) Pembrokeshire Green Infrastructure Project.

<sup>4</sup> <https://www.pembrokeshirecoast.wales/planning/planning-policy/local-development-plan-2/supplementary-planning-guidance-ldp2/biodiversity-supplementary-planning-guidance/>

<sup>5</sup> <https://www.pembrokeshirecoast.wales/trees-and-woodland-draft-supplementary-planning-guidance-oct-2022/>

21. In due course Officers will need to consider whether any amendments to the recently adopted Biodiversity Supplementary Planning Guidance are needed.<sup>6</sup> Given that the supplementary planning guidance has only recently been reviewed the changes to Planning Policy Wales are generally consistent with the approach taken. There are no obvious immediate issues apparent for Local Development Plan 2 policy.
22. **Major Development:** The edit in relation to major development is considered sensible. The issue has been the subject of legal advice to the South Downs National Park Authority<sup>7</sup> and shared with its Local Plan Inspector. The issues raised are relevant for all National Park Authorities. In summary, the South Downs Local Plan Inspector endorsed an approach which would be consistent with Welsh Government's proposed change.
23. Welsh Government advises: *'It is considered that NPAs need to be able to decide what constitutes 'major' depending on local context and the particular application in question.'*
24. The legal advice provided for the South Downs National Park Authority forms a useful basis to considering how best to approach the matter when making such a decision.

### **Risk considerations**

25. Responding to consultations on national planning policy changes potentially reduces the risk of this National Park Authority being required to comply with national policy it does not consider to be appropriate for the location.

### **Financial considerations**

26. The preparation of a Green Infrastructure Statement will be a requirement of the applicant. It is anticipated that this will assist the planning authority in the appraisal of what biodiversity benefits are being brought forward by the proposal without additional cost being incurred by the planning authority.
27. The need for updates to strategic policy and guidance will need to be explored further and costed. Additional training for officers and specialists will be needed to ensure compliance with the amendments.

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<sup>6</sup> <https://www.pembrokeshirecoast.wales/planning/planning-policy/local-development-plan-2/supplementary-planning-guidance-ldp2/biodiversity-supplementary-planning-guidance/>

<sup>7</sup> *Opinions on the major development test / Sandford principle (in a National Park context rather than in the context of article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012) are available here [Other core documents - South Downs National Park Authority](#). Scroll to Evidence by policy area or Chapter [Core documents 08 – 11].*

### **Equality considerations**

28. The Public Equality Duty requires the Authority to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between different communities. This means that, in the formative stages of our policies, procedure, practice or guidelines, the Authority needs to take into account what impact its decisions will have on people who are protected under the Equality Act 2010 (people who share a protected characteristic of age, sex, race, disability, sexual orientation, gender reassignment, pregnancy and maternity, and religion or belief). This is a monitoring report and does not contain policy, procedure, practice or guidelines.
29. No issues arise with this consultation.

### **Welsh Language considerations**

30. This Welsh Government publication and consultation exercises would need to comply with Welsh Government's requirements.

### **Human Rights considerations**

31. The planning system seeks to progress legitimate aims by managing the development and use of land in the public interest to contribute to achieving sustainable development. It reconciles the needs of development and conservation, securing economy, efficiency, and amenity in the use of land, and protecting natural resources and the historic environment. Human rights under Articles 1 (right to peaceful enjoyment to property), 8 (right to respect for the home, private and family life) and 14 (right to equality), are the most relevant ones. Proportionality means that the measure which interferes with the right must strike a fair balance between the aim and the right which it interferes with.
32. No issues have arisen from this consultation.

### **Recommendation**

- 1. That Members endorse the above emerging response to the consultation on Planning Policy Wales on net benefit for biodiversity and ecosystems resilience & Major Development in National Parks.**
- 2. That Members provide any further comment they wish incorporated in the Authority's final response by the close of business on the 17<sup>th</sup> of May 2023.**
- 3. The National Park Authority's Strategic Policy Manager be given delegated powers to submit a response to Welsh Government subject to agreement by the Chair and the Chief Executive Officer of the Authority.**

### **Background Documents**

<https://www.pembrokeshirecoast.wales/wp-content/uploads/2020/09/LDP-Text-for-Adoption.pdf>

<https://www.pembrokeshirecoast.wales/wp-content/uploads/2021/06/Post-Cons-Bio-SPG-Eng-1.pdf>

*(For further information, please contact Martina Dunne on ext. 4820)*

## TARGETED POLICY CHANGES

### The following changes are proposed to the introductory section of Chapter 6

#### Distinctive and Natural Placemaking and Well-being

The Distinctive and Natural theme covers environmental and cultural components of placemaking. These components are complementary to those of the Active and Social and Productive and Enterprising themes and collectively the three themes come together to contribute towards the national sustainable placemaking outcomes. The diagram below illustrates how these outcomes are linked and work together as a whole, with Natural and Distinctive outcomes emphasised.

Places which are Distinctive and Natural contribute to the seven goals of the Well-being of Future Generations Act in the following ways.

A Prosperous Wales can be realised by valuing the quality of our landscapes and historic environment as important for tourism, business, local employment, locally sourced building products, in attracting inward investment and to be accessed, used and enjoyed by local communities. By protecting, maintaining and enhancing biodiversity, increasing the resilience of ecosystems and our natural environment more generally, it will be possible to future proof economic assets in response to the challenges presented by the climate emergency, to promote low carbon and appropriate resource choices which address the causes of climate change and to provide cost effective ecosystems services such as clean air and water.

A Resilient Wales can be supported by protecting and providing sufficient scales, extent, diversity and connectivity within, of and between, landscapes and habitats to maintain and enhance biodiversity and the resilience of ecosystems. This support will -enable them to withstand the pressures of change, and ~~protect and enhance biodiversity~~ to tackle pollution, to protect and enhance water resources, to protect soils and to enable flood mitigation, the creation of carbon sinks, (especially in urban areas), and to promote opportunities for social and economic activity based on valuing and enabling access to the natural, historic and built environment.

A Healthier Wales can be achieved by enabling opportunities for connecting with the natural and historic environment, enabling access to tranquil areas, tackling airborne pollution and other environmental risks and the promotion of active travel and encouragement of healthier lifestyles with the benefit of improving physical and mental well-being.

A More Equal Wales can be achieved through facilitating access to the natural and historic environment for physical and social benefits especially where inequalities exist. Regeneration should promote beneficial use of historical mining and industrial legacies in a sensitive way to allow communities and the natural environment to thrive and significant tourism generators such as the Wales Coastal Path are protected and accessible by all.

Cohesive Communities are sustained and created by providing spaces for people to interact and undertake community activities, including recreational spaces, play, food growing and opportunities to connect with nature. Pollution or risks such as flooding are mitigated or avoided and based on maximising opportunities for communities to flourish and undertake social, economic and cultural activities in healthy, attractive and pleasant surroundings.

A Vibrant Culture and Thriving Welsh Language will mean building on those unique and special characteristics which give places their distinct 'feel' and identity. Fostering and sustaining a sense of place through the protection and enhancement of the natural, historic and built environment and allowing for and supporting uses and activities which provide for creative and cultural experiences.



A Globally Responsive Wales will be promoted by reducing carbon emissions, addressing airborne pollution and managing environmental risks. This must be achieved in a way which promotes a natural and historic environment which should be protected and enhanced for the sake of its special characteristics and nature conservation value as well as the way in which it contributes to wider social, economic and cultural objectives, grass roots music venues, theatres and religious or spiritual buildings.

Development plan strategies, policies and development proposals should be formulated to look to the long term protection and enhancement of the special characteristics and intrinsic qualities of places, be these of natural, historic or built environments, ensuring their longevity in the face of change. This means both protecting and enhancing landscapes, habitats, biodiversity, geodiversity and the historic environment in their own right as well as other components of the natural world, such as water resources or air quality. Problems should be prevented from occurring or getting worse. Biodiversity loss should be reversed, pollution reduced, environmental risks addressed and the overall resilience of ecosystems improved. When appropriate development is proposed, it must be taken forward in an integrated way, woven into its place/context alongside nature to ensure common issues are considered and accommodated in the early stages of plan-making or individual proposal and multiple benefits, such as green infrastructure are secured. Proposals should work creatively with nature and should demonstrate how decisions on design, siting, scale density and other key considerations have been informed by biodiversity and ecosystem resilience considerations.

Collaboration must occur ~~in~~ strategically in planning for the protection and enhancement of landscapes, the historic environment, biodiversity, geodiversity, air quality and soundscapes as well as addressing environmental risks to ensure priorities align and opportunities, such as regeneration and the provision of homes, can be sustainably provided. There will be issues which require cross boundary collaboration and will be best addressed through joint working on Strategic development Development plansPlans. To do this, close involvement of various agencies and communities will be required to ensure needs and aspirations can be aligned, investment is targeted to the right places and beneficial outcomes can be gained by better use of shared information, evidence and assessments. The State of Natural Resources Report (SoNaRR) and Area Statements ~~will~~ provide evidence on a range of environment and natural resource management issues and an effective de-risking approach should facilitate greater transparency about environmental risks, appropriate solutions and the potential for wider associated benefits.

### Distinctive and Natural Trends

The future trends of relevance to the Distinctive and Natural theme will need to be addressed, both individually and in an integrated way by embracing the national sustainable placemaking outcomes and the objectives for places identified in the Productive and Enterprising and Active and Social themes. Certain trends will be beneficial and should be facilitated by the planning system. Negative trends or cycles must be challenged and reversed and more sustainable behaviours and outcomes sought. Change must be fostered in the way all those involved in the planning process respond, both strategically and when drawing up and designing individual proposals.

The key issues in this theme include:

- Long term and chronic decline of biodiversity and habitat loss: Pressure and demands include changes in land and sea-use, direct exploitation of organisms, climate change, pollution and the invasion of non-native species. SoNaRR 2020 reports losses of habitat and species' populations over the last century and suggests that decline is chronic, that decline will continue due to events which have already occurred and events associated with climate change and habitat fragmentation in the future. At present, there is insufficient resilience in Wales' ecosystems, primarily evidenced by species not recovering.



- Adaptation to the effects of climate change: The combination of warming that has already occurred, together with additional warming, as projected by the latest climate change evidence, means there are potentially significant impacts for Wales in terms of adaptation. The challenges include flooding and coastal change risks to communities, businesses and infrastructure; risks to health, wellbeing and productivity from high temperatures; risk of water shortages in the public water supply, agriculture, energy generation and industry and risks to soil, biodiversity and terrestrial, coastal, marine and freshwater habitats. Climate change is also likely to have significant impacts on landscape character, historic buildings, local distinctiveness and quality, directly through changing land cover, migrating habitat and species ranges, and indirectly by influencing land use decisions.
- Recognising and addressing the factors influencing landscape change: National landscape change to 2015 has been small overall, but some changes have been substantial locally. The key contributors to landscape change which can be influenced by the planning system include the expansion of settlements, commercial, industrial, energy and quarrying developments, road improvements and large recreational related developments, including any associated mitigation measures resulting from renewable energy generation, water resource management and through the planned expansion of woodland.
- Rising levels of airborne and water pollution: SoNaRR reports increases in air pollution across a range of pollutants from urbanisation, road traffic and intensification of agriculture. Within freshwater and marine environments SoNaRR reports elevated nutrient and chemical contaminants which are detrimental to ecosystem function and resilience.
- Loss of venues for cultural activities or historic assets: understanding and addressing the challenges of loss of cultural features which give places their unique feel, including those subjected to particular pressure as a result of increasing demands for urban living.

**Distinctive and Natural Linkages** Driven by the national sustainable placemaking outcomes, the policy topics of the Distinctive and Natural places theme must be considered together with the Productive and Enterprising and Active and Social themes when formulating development plan strategies, policies and proposals and when designing and developing individual proposals and making decisions on planning applications.

The characteristics and environmental qualities of places varies across Wales, creating distinctive or unique features associated with their particular natural or cultural heritage and these should be recognised and valued, in and of, themselves and should be protected and enhanced. Priorities for rural and urban areas will reflect how these characteristics and qualities contribute to the attractiveness, liveability, resilience, functioning, economic prosperity and ultimately the health, amenity and wellbeing of people and places.

Desired Distinctive and Natural outcomes will be based on sustaining and creating places in which:

- the role which landscapes, the historic environment, habitats and biodiversity, the characteristics of coastal, rural or urban environments play in contributing to Distinctive and Natural places are identified, understood, valued, ~~protected~~ maintained and enhanced;
- further fragmentation ~~of habitats is avoided, wherever possible, and green networks, corridors and connecting habitat within developed areas is protected, and enhanced~~ and isolation of habitats and species is avoided, wherever possible, and wildlife corridors and stepping stones forming wider ecological networks are protected, maintained and enhanced;
- sites designated for their landscape or ~~nature conservation~~ biodiversity or geodiversity importance are fully considered and their special characteristics and features protected and enhanced, whilst the ~~network series~~ of sites should be recognised as being at the heart of

improving the resilience of ecosystems;

- development proposals are directly shaped by the principle of retaining and enhancing existing habitats and species is the most cost effective and robust option for biodiversity, taking into account the benefits of a preventative approach;
- opportunities in all areas to improve the resilience of ecosystems are taken by addressing problems such as, building on floodplains, diffuse pollution, soil compaction and sealing, ensuring the protection of peat resources and improving approaches to coastal flood defence in urban areas and coastal margins;
- opportunities to improve health and well-being are taken, in particular, to reduce average levels of airborne pollution, protect appropriate soundscapes, create areas of tranquillity, secure sustainable drainage systems, ensure water sensitive design, address soil carbon management and secure access to informal spaces for recreation through green infrastructure provision so as to improve capacity for adaptability to the challenges of climate change, such as flood risk and increased temperatures;
- opportunities to develop green infrastructure are taken, ~~wherever possible~~ where this would improve the resilience of ecosystems; and
- support development which contributes positively to an area and addresses environmental risks which constrain potential and impact adversely on communities and the natural and built environment by using PDL or existing buildings and taking opportunities to 'clean up' land and address dereliction, where this is informed by the historic and natural environment.

## Introduction

- 6.0.1 The Distinctive and Natural Places theme of planning policy topics covers historic environment, landscape, biodiversity and ~~habitats~~ geodiversity, coastal characteristics, air quality, soundscape<sup>98</sup>, water services, flooding and other environmental (surface and sub-surface) risks.
- 6.0.2 The special and unique characteristics and intrinsic qualities of the natural and built environment must be protected in their own right, for historic, scenic, aesthetic and nature conservation reasons. These ~~features~~ give places their unique identity and distinctiveness and provide for cultural experiences and healthy lifestyles.
- 6.0.3 As well as those characteristics regarded as special or unique there are other, environmental qualities of places which are ubiquitous. Environmental components of places, such as clean air, access to open spaces and water quality, are linked to the quality of the built and natural environment. The environmental components of places influence and shape health and wellbeing as well as playing a role in sustaining and creating places which are adaptable and resilient to change. Distinctive and Natural places must maintain or incorporate green infrastructure, recognising the wide ranging role it can play, as key components of their natural and built fabric. Doing so will maximise health and well-being of communities and the environment.

## 6.2 Green Infrastructure

- 6.2.1 Green infrastructure is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. Component elements of green infrastructure can function at different scales. At the landscape scale green infrastructure can comprise entire ecosystems such as wetlands, waterways, peatlands and mountain ranges. At a local scale, it might comprise parks, fields, ponds, natural green spaces, public rights of way, allotments, cemeteries and gardens. At smaller scales, individual urban interventions such as street trees, hedgerows, roadside verges, and green roofs/walls can all contribute to green infrastructure networks.

- 6.2.2 The Environment (Wales) Act 2016, provides a context for the delivery of multi-functional green infrastructure. Its provision can make a significant contribution to the sustainable management of natural resources, and in particular to maintaining and enhancing biodiversity and the resilience of ecosystems in terms of the diversity ~~between and within ecosystems and the extent, condition and connectivity of ecosystems and their ability to adapt and connections within and between ecosystems and the extent and condition of these ecosystems, so that they are better able to resist, recover and adapt to pressures~~. This means that the development of green infrastructure is an important way for local authorities to deliver their Section 6 duty<sup>113</sup>.
- 6.2.3 Green infrastructure is capable of providing several functions at the same time and as a result offers multiple benefits, for social, economic and cultural as well as environmental resilience. The components of green infrastructure, by improving the resilience of ecosystems, can result in positive benefits to well-being including flood management, water purification, improved air quality, reduced noise pollution and local climate moderation, climate change mitigation and food production. These benefits are important in urban environments where they can facilitate health and well-being related benefits of open space, clean air and improved tranquility, for example, as well as creating a sense of place and improved social cohesion. In addition, green infrastructure has a role in protecting local distinctiveness, providing economic benefits and social and community opportunities.

#### Taking a proactive approach to Green Infrastructure provision

- 6.2.4 Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and ~~are is~~ intrinsic to the quality of the spaces we live, work and play in. ~~The multiple benefits that resilient ecosystems and green infrastructure offer to society, including the economic and social contribution they make to local areas, should be maximised when balancing and improving the needs of communities.~~ The planning system should protect and enhance green infrastructure assets and networks because of ~~these its~~ multi-functional roles ~~and provide a framework which facilitates the implementation of green infrastructure strategies and which complements maintenance and management regimes within urban areas and wider land management activities in rural areas~~. This will require effective joint working and collaboration across sectors and activities. The protection and enhancement of biodiversity and the resilience of ecosystems must be carefully considered as part of green infrastructure provision but this must occur alongside the need to meet society's wider social and economic objectives and the needs of local communities.

#### Integrating Green Infrastructure and Development

- 6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, helping to overcome the potential for conflicting objectives, and contributing towards health and well-being outcomes.

[NEW PARAGRAPH] A green infrastructure statement (prepared by the applicant), incorporated into a Design and Access Statement, will be an effective way of demonstrating positive multi-functional outcomes. There are multiple ways of incorporating green infrastructure, dependent on the needs and opportunities a site presents but in all cases development proposals should address well-being priorities and the nature and climate emergencies and demonstrate how this has been done (Green Infrastructure Assessments should be referred to where available).

Landscaping, green roofs, grass verges, sustainable urban drainage and gardens are examples of individual design measures that can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired

environmental qualities of places.

[NEW PARAGRAPH] The Building with Nature standards provide a benchmark of good practice and should be applied to all development as a quality checklist, in a way which is proportionate to the nature and scale of the development proposed. These standards represent a default benchmark for ensuring appropriate consideration in circumstances where there is an absence of a green infrastructure assessment and planned approach or relevant Supplementary Planning Guidance. Whenever possible, accreditation under these standards should be pursued.

#### Green Infrastructure Assessments

- 6.2.6 Planning authorities should, as part of adopting a strategic and proactive approach to green infrastructure, ~~and biodiversity~~ and ecosystems resilience by producing produce up to date inventories and maps of existing green infrastructure and ecological assets and networks. These are key pieces of information to support the preparation of development plans. Such Green Infrastructure Assessments should use existing datasets, and the best available information, to develop an integrated map-based evidence resource. Doing so will facilitate a proactive approach and enable contributions towards the well-being goals to be maximised.
- 6.2.7 The Green Infrastructure Assessment should be used to develop a robust approach to maintaining and enhancing biodiversity, increasing ecological resilience and improving well-being outcomes, and should identify key strategic opportunities where the retention, maintenance, buffering, restoration, ~~maintenance,~~ creation and or connection of green features and functions would deliver the most significant benefits.
- 6.2.8 The outcomes of the Green Infrastructure Assessment should draw from the evidence base provided by Area Statements and well-being assessments and be integrated into development plans to ensure the early and co-ordinated consideration of opportunities to inform the development, design and land related strategies of the plan. The Green Infrastructure Assessment and outcomes should also be given early consideration in development proposals, and inform the implementation of projects.
- 6.2.9 Considering how significant benefits can be delivered through green infrastructure will be a key aim of the assessment. ~~This may involve identifying opportunities to improve water management and flood mitigation through the provision of Sustainable Drainage Systems, including design measures such as green roofs. In a similar way, identifying how the provision of green infrastructure could form an integral part of strategies for growth will be an important factor in maintaining good air quality and appropriate.~~ Planning authorities should develop a multi-functional, coherent and spatial framework of green infrastructure to improve the overall well-being and health of communities and the environment. As a minimum, outputs from the green infrastructure assessment should:-
- Identify landscape, biodiversity, geodiversity, historic and cultural features which need to be safeguarded as part of multi-functioning urban and rural landscapes;
  - Identify how a net benefit for biodiversity will be secured and the attributes of ecosystem resilience will be enhanced, making the links to other land management activity and maintenance regimes;
  - facilitate the reduction of pollution by identifying nature based solutions which form part of, or complements, wider activity at a catchment scale to address pollution and improve the restoration of riverine and other habitats;
  - address the climate emergency by ensuring tree canopy cover in urban areas is increased, incorporating measures for maintaining good air quality and appropriate soundscapes and by

requiring effective natural flood management and sustainable urban drainage schemes;

- ensure communities have accessible natural green spaces of various sizes and scales within reasonable walking and cycling distances; and
- identify how the provision of green infrastructure could form an integral part of strategies for growth and provide broad parameters for securing its implementation which recognises the dynamic nature of its provision and identifies measures which will need to be provided to safeguard it over the long term.

6.2.10 The need for ecosystems, habitats and species to adapt to climate change and other pressures should be considered as part of the Green Infrastructure Assessment. This should include identifying ways to ~~minimise-avoid~~ or reverse the fragmentation of habitats, and to improve habitat connectivity through the promotion of wildlife corridors and identifying opportunities for land rehabilitation, reducing pollution, landscape management and habitat restoration ~~and the creation of new or improved habitats.~~ Planning authorities should ensure that development avoids or else minimises impact and provides opportunities for enhancement within areas identified as important for the ability of species to adapt and/or to move to more suitable habitats.

6.2.11 Planning authorities must encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement and improve the ecological coherence of the National Site Network, formally known as the Natura 2000 network<sup>114</sup> ~~as well as lower tier protected sites such as SSSIs.~~ The features concerned are those which, because of their linear and continuous structure or their function as ‘stepping stones’ or ‘wildlife corridors’, are essential for migration, dispersal or genetic exchange. The development of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to developing resilient ecological networks and ecosystem resilience, securing a net benefit for biodiversity and in doing so the maintenance and enhancement of biodiversity and ~~improve~~ the quality of the local ~~place and its ability to environment, including enabling~~ adaptation to climate change.

6.2.12 Green Infrastructure Assessments should be regularly reviewed to ensure that information on habitats, species and other green features and resources is kept up-to-date, so that development management decisions are informed by appropriate information about the potential effects of development on biodiversity and green infrastructure functions. Where information is submitted as part of a development proposal (for example, a green infrastructure statement) it should consider the Green Infrastructure Assessment. Planning authorities should use the best available data to monitor a set of key species and habitats, and incorporate these indicators into both their Annual Monitoring Reports (AMRs) and, where appropriate, into the appropriate Section 6 Plan and Report. The monitoring of success and delivery of habitat and species mitigation requirements secured through conditions and obligations can also usefully feed into this process. At the end of each reporting period they should use this data to indicate whether there has been a net gain-benefit or loss of biodiversity, and should use the trends identified to determine future priorities for planning and decision making, with the aim of furthering the goals of the Section 6 Duty.

## 6.4 Biodiversity and Ecological Networks

6.4.1 Biodiversity underpins the structure and functioning of ecosystems. It is the diversity of living organisms whether at the genetic, species, habitat or ecosystem level. An ecosystem is made up of living organisms, plants, animals and micro-organisms, in conjunction with their non-living environment, air, water, minerals and soil, and all the diverse and complex interactions that take place between them.



- 6.4.2 The Environment (Wales) Act 2016 introduced an enhanced biodiversity<sup>119</sup> and resilience of ecosystems<sup>120</sup> duty (Section 6 Duty). This duty applies to public authorities in the exercise of their functions in relation to Wales and will help maximise contributions to achieving the well-being goals. Section 7 of the Act (insert footnote to the legislation) requires Welsh Ministers to publish and maintain lists of species and types of habitats that are regarded as of 'principal importance' for the purpose of maintaining and enhancing that biodiversity (insert footnote to the Section 7 lists of species and habitats). The Nature Recovery Action Plan supports this legislative requirement to reverse the decline in biodiversity, address the underlying causes of biodiversity loss by putting nature at the heart of decision-making and increasing the resilience of ecosystems by taking specific action focused around the 6 objectives for habitats and species.
- 6.4.3 The planning system has a key role to play in helping to reverse the decline in biodiversity and increasing the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement. (Add footnote Future Wales contains a definition of resilient ecological networks) Recognising that development needs to take place and some biodiversity may be impacted, the planning system can ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being. Addressing the consequences of climate change should be a central part of any measures to conserve-protect, maintain and enhance biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements and species records from held by Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:
- support the maintenance and enhancement~~conservation~~ of biodiversity and the resilience of ecosystems, in particular the conservation of wildlife and habitats;
  - ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats, including the most up to date targets;
  - ensure statutorily and non-statutorily designated sites are properly protected and managed and their role at the heart of resilient ecological networks safeguarded;
  - safeguard protected ~~and priority~~ species of principal importance and existing biodiversity assets from ~~impacts which directly, indirect or cumulative adverse impacts that~~ affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil, including peat; and
  - secure enhancement of and improvements to ecosystem resilience and safeguard resilient ecological networks by improving diversity, condition, extent and connectivity. ~~of ecological networks.~~
- 6.4.4 It is important that biodiversity and ecosystem resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals. Since these considerations are not confined by administrative boundaries, nor by sectoral activity or regulatory regimes, they must be addressed strategically through consultation and collaboration with adjoining planning authorities and other bodies such as NRW and the third sector. All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on biodiversity and ecosystem resilience the environment cannot be avoided, minimised or mitigated, and as a last resort compensated for, it will be necessary to refuse planning permission.

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development ~~should not cause any significant loss of habitats or populations of species, locally or nationally and must work alongside nature and it~~ must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems. (A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a better state than before, through securing long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site.)

In doing so planning authorities must also take account of and promote the resilience of ecosystems, in particular the following ~~aspects~~ attributes (known as the DECCA Framework) (insert footnote link to <https://cdn.cyfoethnaturiol.cymru/media/693247/ecosystem-resilience-in-a-nutshell-1-what-is-ecosystem-resilience.pdf>) :

- diversity between and within ecosystems;
- ~~the connections between and within ecosystems~~ (text move) ;
- ~~the~~ extent or scale of ecosystems;
- the condition of ecosystems including their structure and functioning;
- the connections between and within ecosystems; and
- ~~the adaptability of ecosystems~~ other aspects of ecosystem resilience include ecosystems abilities to adapt to, resist and recover from pressures.

6.4.6 In fulfilling this duty, planning authorities must also have regard to:

- the list of habitats and species of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- the SoNaRR, published by NRW; ~~and~~
- any Area Statement, published by NRW, that covers all or part of the area in which the authority exercises its functions, and
- any guidance given to public authorities by Welsh Ministers under Section 6 of the Environment (Wales) Act.

6.4.7 Planning Authorities should also refer to up to date ecological survey information (where appropriate).

6.4.8 A proactive approach towards facilitating the delivery of biodiversity and ecosystem resilience outcomes should be taken by all those participating in the planning process.

In particular, planning authorities must demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment (Wales) Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions<sup>121</sup>. This will require action to be taken at the plan level. Such action should facilitate the implementation of the Section 6 duty at the level of individual development proposals by setting a broad framework. In the absence of such a framework the onus is on the developer to bring forward proposals in a way which enables the planning authority to fulfil its duties under Section 6.

6.4.9 The broad framework for implementing the Section 6 Duty, securing a net benefit for biodiversity and building resilience through the planning system includes addressing:

[Orange text box to remain]



## Implementing the Section 6 Duty: The DECCA Framework

Diversity: at a biological level, including at the genetic, species, habitat, ecosystems or sea/landscape scale, as well as at the geological and physical level underpins biodiversity, resilient ecosystems, their functioning and the delivery of important ecosystem services. to ensure mechanisms are in place to minimise further loss and where circumstances allow for species' populations to expand and recolonise their natural range (former range) or adapt to future change. More diverse ecosystems are more resilient to external influences (this includes biological, geological and physical diversity on a site). This means strategic planning decisions and individual development proposals should avoid significant negative impacts on biodiversity, by considering how biodiversity assets, such as designated sites, habitats of Principal Importance and protected species and species of Principal Importance, can be maintained and enhanced.~~not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity;~~

Extent: to ensure mechanisms allow for the identification of potential habitat, the maintenance of existing assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new habitat. This means that strategic planning decisions and individual development proposals should incorporate measures which seek the creation, restoration and appropriate management of green networks and linkages between habitats and maintaining and enhancing other green infrastructure features and networks;

Condition: Ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services. Ecosystem health can be adversely affected by a range of pressures including land use and climate change, pollution, Invasive Non-Native Species and over exploitation as set out in SoNaRR. Strategic p~~lanning~~ decisions and individual development proposals should not compromise the condition of ecosystems. By taking an integrated approach to development, for example, which considers both direct and wider impacts and benefits it should be possible to make a positive contribution. Planning for the long term management of retained habitats is key to maintaining condition through for example, the use of planning obligations;

Connectivity: to take opportunities to develop functional habitat and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration and appropriate management, including the links within and between habitats, allows species to forage, breed and migrate and respond to climate change and other pressures, as well as enabling the flow of natural processes. The opportunities to be taken at a strategic level could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors, including transport and river corridors, and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt to change, including climate change. Individual development proposals should identify and incorporate measures which enable links to be made between the site and its surroundings so as to improve connectivity; and

~~Adaptability to change: primarily in the form of climate change, for both species (diversity) and ecosystems requires action to protect the extent, condition and connectivity of habitats, features and ecological networks. Development plans, planning proposals and applications which build on protecting designated sites and securing and enhancing green infrastructure will be key ways of addressing the attributes of ecosystems resilience identified in the Environment Act as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.~~

Adaption, resistance and recovery from pressures arise when the attributes of ecosystem resilience - diversity, extent, condition and connectivity of ecosystems are sufficient. This means that strategic

planning and individual development proposals should identify impacts to the ecosystem resilience attributes of biodiversity, using the pressures identified in SoNaRR. They should incorporate measures to ensure that biodiversity's ability to adapt to, resist and recover from pressures is enhanced. Protecting designated sites and securing and enhancing green infrastructure will be key ways of achieving this, as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.

## Maintaining and Enhancing Biodiversity

6.4.21 Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, ~~and~~ build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for; enhancement must be secured ~~wherever possible~~ delivering a biodiversity benefit on site, over and above that required to mitigate or compensate for any negative impact. Where biodiversity enhancement is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission.

1. a ) The first priority for planning authorities is to avoid damage to biodiversity in its widest sense (i.e. the variety of species and their abundance) and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or gain-benefit have been fully considered.
 

b) Proposals that include designated sites should, as a matter of principle, be excluded from site searches. This principle also extends to those sites containing protected species and habitats which are irreplaceable and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be exceptional for development to be justifiable in such instances.
2. ~~Planning authorities should ensure that features and elements of biodiversity or green infrastructure value are retained on site, and enhanced or created where ever possible, by adopting best practice site design and green infrastructure principles. The provision of up to date ecological survey information will assist in this process. Where necessary, planning authorities should seek to modify the development proposal through discussion with the applicant at the earliest possible stage. Biodiversity and green infrastructure modifications should draw on the issues and opportunities identified through the Green Infrastructure Assessment.~~

~~3. In some circumstances, it will be appropriate to attach planning conditions, obligations or advisory notes to a permission, to secure biodiversity outcomes. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects.~~

2. When all locational and siting options for avoiding damage to biodiversity have been exhausted, applicants, in discussion with planning authorities should seek to minimise the initial impact on biodiversity and ecosystems by:

  - maintaining the largest possible area of existing habitat supporting biodiversity and functioning ecosystems, particularly Section 7 priority habitats and species where

present, by minimising development size and appropriate orientation on site, paying due regard to the potential for continued maintenance of retained areas,

- retaining existing features (e.g. trees, hedgerows, ponds), and
- using innovative solutions to minimise damage and maintain existing biodiversity features and ecosystems.

3. a) Where, after measures to minimise impact, biodiversity and ecosystems could still be damaged, or lost through residual impacts, the proposed development should mitigate that damage. In such circumstances, it will be necessary to attach planning conditions, obligations or advisory notes to a permission, to secure biodiversity outcomes. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, and the development to be permitted, enforceable, precise, and reasonable in all other respects.

3. b) Mitigation measures should be like for like in the case of priority habitat and species and in every case seek to build ecosystem resilience within the site and where possible the wider area. Having mitigated loss, a scheme of enhancements should be provided to ensure a net benefit for biodiversity. These could include on-site habitat creation and/or could be part of the development itself using biodiverse nature based solutions such as SUDS, green roofs, woodland expansion, and wetland creation.

Improving ecosystem resilience, particularly improving connectivity to the immediate surroundings, would be a key contribution to on-site mitigation and enhancement. How a development would improve the attributes of resilience should be demonstrated as far as this is reasonably practical.

4. When all ~~other-the~~ options above have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes, offsite compensation for unavoidable damage must be ~~sought~~ provided.

In the absence of a planned approach, compensation measures must be guided by place-based evidence and the onus is on applicants to address the following:

- a. This should normally take the form of habitat restoration, or habitat creation, or the provision of long-term management arrangements to enhance existing habitats and deliver a net benefit for biodiversity. It should also be informed by a full ecological assessment to establish a formal baseline before habitat creation or restoration starts and secured and established far enough in advance before the loss of biodiversity on site.
- b. The Green Infrastructure Assessment should be used to identify suitable locations for securing offsite compensation. Where possible, a landscape-scale approach, focusing on promoting wider ecosystem resilience, should help guide locations for compensation. This should be identified through a Green Infrastructure Assessment. This exercise will determine whether locations for habitat compensation should be placed close to the development site, or whether new habitat or additional management located further away from the site would best support biodiversity and ecosystem resilience at a wider scale.
- c. Where compensation for specific species is being sought, the focus should be on maintaining or enhancing the population of the species within its natural range. This approach might also identify locations for providing species-specific compensation further away from the site. Where they exist, Spatial Species Action Plans should be used to help identify suitable locations.
- d. Any proposed compensation should take account of the Section 6 Duty (Biodiversity and

Resilience of Ecosystems Duty), ~~and the five key ecosystem resilience attributes that it outlines~~ the DECCA framework and appropriate ecological advice from NRW and, or a competent CIEEM registered ecologist.

It should also be accompanied by a long term management plan of agreed and appropriate mitigation and compensation measures.

5. Finally, where the adverse effect on ~~the environment biodiversity and ecosystem resilience~~ clearly outweighs other material considerations, the development should be refused.

[NEW PARAGRAPH] The following factors will affect the implementation of the above step-wise approach:

- Pre-application surveys and research by developers will be necessary establish the baseline state of biodiversity and ecosystem resilience on site taking into account the site's contribution to resilient ecological networks through its diversity, extent, connectivity and condition and the provision of ecosystem services. For householder scale applications, planning authorities should assist applicants in outlining expectations regarding information required to accompany an application, recognising that the enhancement measures sought should be proportionate to the scale of the application. Understanding the ecological context of a development will be essential in facilitating/enabling a proportionate response to the significance of any potential impact.
- Potential applicants are advised to not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.
- All development must aim to deliver a net benefit for biodiversity and ecosystem resilience from the baseline state (proportionate to the scale and nature of the development proposed). Even if the biodiversity value has been maintained, there must still be a pro-active process to look for and secure enhancement through the design and implementation of the development.
- The net benefit for biodiversity must be achieved within as short a time as possible, and management must be secured, in accordance with an agreed management plan for the long-term.

Where sites are already allocated in an adopted development plan it may not be possible to follow the step-wise approach in a sequential way, because certain progress towards fulfilling the allocations may have been made. However, when plans are to be reviewed then allocations should be considered afresh against the step-wise policy and in light of their present biodiversity condition and the role they may play in enhancing ecosystem resilience. In such circumstances it may be necessary to de-allocate sites. Where sites have progressed to a degree that it may not be possible to de-allocate them, then effects should be minimised and potential mitigation, and as a last resort, compensation identified and be capable of being secured.

[Text move in Chapter] Designated Sites

- 6.4.10 Many of the most important areas ~~of nature conservation value for biodiversity~~ have been statutorily designated. These statutorily designated sites make a vital contribution to protecting biodiversity, maintaining the resilience of ecosystems and can also be important in providing opportunities for achieving wider well-being objectives.

[NEW PARAGRAPH] Development in a designated site which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure designated sites can continue to fulfil their role at the heart of resilient ecological networks. In line with criterion 1) of the stepwise approach it will be necessary to demonstrate that no alternative locations to statutorily designated sites exist to fulfil the needs for any development proposed. Where development is proposed in proximity to a designated site, unacceptable impacts must be avoided or minimised in line with the step wise approach because of the importance of their role at the heart of resilient ecological networks.

[NEW PARAGRAPH] Where development has been appropriately planned by either the planning authority, the nature conservation body or an approved custodian such as an environmental Non-Governmental Organisation it may, exceptionally, be possible to propose development. In such circumstances, a planning authority will have established a broad framework in which biodiversity and the resilience of ecosystems can be maintained and enhanced and the attributes of resilience improved as part of its green infrastructure assessment. Otherwise, development in such designations should be considered exceptional. In such cases, proposals must be carefully assessed to ensure that effect on those nature conservation interests which the designation is intended to protect are clearly understood; development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites protected from damage and deterioration, with their important features conserved and enhanced and capacity for restoration demonstrated by and through appropriate management. Further information on Habitats Regulations Assessment is contained in TAN 5: Nature Conservation and Planning.

Hierarchy of Designations: International, National, Local

- 6.4.11 ~~Planning authorities must have regard to the relative significance of international~~ International, national and local designations ~~in considering the weight to be attached~~ are governed by different statutory requirements, to nature conservation interests Further guidance, particularly in relation to ~~Natura 2000 sites~~ the National Site Network, is contained in TAN 5: Nature Conservation and Planning. Whilst statutory requirements differ, all designated sites must be able to continue to protect the biodiversity and features for which they were designated and contribute to the resilience of ecosystems at the appropriate scale. This ability should not be compromised by inappropriate development or other activity.
- 6.4.12 The supporting reasoning for the designation at all levels and an outline of the qualifying features of the designation should be clearly recorded as part of the Green Infrastructure Assessment and considered in formulating development plans, when designing new development proposals and in development management decisions. When formulating development plans the resilience of this network should be supported by the identification of opportunities for restoration and nature recovery beyond its boundaries to improve its extent, connectivity and adaptability.
- 6.4.13 ~~Differentiation should be given to~~ As part of a Green Infrastructure Assessment it may be necessary to differentiate between the relative significance of the designation ~~within the hierarchy~~, when considering the weight to be attached to nature conservation interests. The need to do this will be rare and only necessary when options to locate development, or activity, which is required to meet the social or economic needs of the community are severely limited. It should be recognised that all protected sites will have a unique and important role as

part of ensuring resilient ecological networks.

- 6.4.14 ~~Statutory designation of a site does not necessarily prohibit development, where it has been planned, but proposals must be carefully assessed to ensure that effect on those nature conservation interests which the designation is intended to protect are clearly understood; development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites protected from damage and deterioration, with their important features conserved and enhanced by appropriate management. Further information on Habitats Regulations Assessment is contained in TAN 5: Nature Conservation and Planning.~~

Figure 12: Designated Sites ~~Hierarchy~~

Tier	Name	Statutorily and Non Statutorily Protected Sites
International	Special Area of Conservation	Statutory
	Special Protection Area	Statutory
	Ramsar sites	Statutory
	UNESCO Biosphere Reserve	Non-Statutory
National	Site of Special Scientific Interest	Statutory
	National Nature Reserve	Statutory
Local	Sites of Importance for Nature Conservation	Non-Statutory
	Local Nature Reserve	Non-Statutory
	Local Wildlife Sites	Non-Statutory
	<u>Regionally Important Geological and Geomorphological Sites (RIGGS)</u>	<u>Non-Statutory</u>
<u>Other</u>	<u>National Natural Resource areas (Future Wales)</u>	<u>Non-Statutory</u>

#### Protection and Management of Designated Sites

- 6.4.15 Statutorily designated sites must be protected from damage and deterioration, with their important features conserved and enhanced by appropriate management. The contribution of the designated site to ~~a wider network of resilient ecosystems~~ ecological networks should be recognised and captured as part of a strategic approach to planning policy and decision making. The links between planning and wider management activity should be made because complementary, and joint, action will be necessary to address the nature emergency.
- 6.4.16 Planning authorities should consider opportunities to restore networks of habitats to a healthy condition identified as a result of undertaking the Green Infrastructure Assessment and the identification of appropriate interventions to secure delivery against the ~~aspects~~ attributes of resilience, diversity, connectivity, scale, condition and adaptability. Taking a planned approach will strengthen the ability of designated sites to fully perform their role at the heart of resilient ecological networks and to encourage nature recovery on a larger scale. Development may only form part of a planned approach if it does not compromise the functioning of the protected site as part of a resilient ecological network.



## Sites of Special Scientific Interest

- 6.4.17 SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. SSSIs can be damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away. There is a presumption against development ~~likely to damage a~~ a SSSI and this presumption should be appropriately reflected in development plans and development management decisions. Only where development is considered to be appropriate and is not likely to damage a SSSI and there is broad and clear agreement for potential enhancement (including mitigation and compensation measures) as part of a plan should development be proposed. Development therefore must not be proposed in the absence of an agreed development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI.

[NEW PARAGRAPH] ~~In particular, b~~ Before authorising development likely to damage any of the notified features of a SSSI, planning authorities must give notice of the proposed operations to NRW, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions. Where local planning authorities are minded to grant planning consent against the advice of NRW they must notify Welsh Ministers. ~~For the purposes of land use planning proposed SSSIs will be treated in the same way as notified SSSIs<sup>422</sup>~~

## Special Protection Areas, Special Areas of Conservation and Ramsar Sites

- 6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations.

The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers.

Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs, but are not subject to the Habitats Regulations. However, Ramsar sites should be treated within the planning system in the same way as SACs and SPAs.

## Proposed Special Areas of Conservation, Special Protection Areas and Ramsar sites

- 6.4.19 Sites which have been formally proposed as SPAs, SACs but which are not yet subject to legal protection under the Habitats Regulations, should be treated within the planning system in the same



way as if they were legally designated. The same considerations should, as a matter of policy, be applied to proposed Ramsar sites.

#### Protection for Non-statutory Designations

- 6.4.20 Although non-statutory designations do not have a statutory process for their protection ~~carry less weight than statutory designations,~~ they ~~can~~ make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given ~~adequate~~ protection in development plans and the development management process. Non-statutory sites can form the core of a vital network of threatened habitats, play an essential role in maintaining, connecting and restoring biodiversity and contribute to nature recovery and a net benefit for biodiversity.

Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the County Ecologist and third sector environmental organisations. Where a Green Infrastructure Assessment has identified that certain features or characteristics of the site need to be maintained ~~conserved~~ or enhanced, planning authorities should state in their development plans what features or characteristics require ~~this extra~~ protection and why, and explain how the policies will achieve this protection. Assessments should similarly consider the presence of protected and priority habitats and species including those on the Section 7 list and appropriate weight attached to their protection.

[NEW PARAGRAPH] Where, for reasons of scale, local authorities have decided not to map non-statutory designations on a proposals or a constraints map, development plans should include a criterion-based policy to provide for sites that meet the qualifying criteria for non-statutory designation; these sites carry equal weight to mapped sites.

[NEW PARAGRAPH] Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated and on wider ecosystem resilience.

#### Peatlands

[NEW PARAGRAPH] Peat soils are extremely fragile and if compromised put at risk the resilience of the ecosystems they support. Peatland habitats cover only 3-4% of Wales yet store in the region of 20-25% of all soil carbon. Where peat is identified within proposed developments considerable weight should be given to its protection because of its special importance in underpinning and supporting national natural resources such as soil carbon, biodiversity and flood management, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. When considering criterion 1 of the stepwise approach and when undertaking the search sequence in the preparation of development plans access to information will be important and Welsh Government have made available the Peatlands of Wales map as a first step to assist in identifying peatland locations [Peatland Data Portal – <https://smnr-nrw.hub.arcgis.com/apps/d18ef8c74ecc4dc4a0cbf71ab6935ba0/explore> <https://naturalresources.wales/evidence-and-data/maps/the-national-peatland-action-programme/?lang=en>].

#### Protected Species

- 6.4.22 The presence of a species protected under European or UK legislation, or under Section 7 of the Environment (Wales) Act 2016 is a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat and to ensure that the range and population of the species is sustained. Planning authorities should advise anyone submitting a planning application that they

must conform with any statutory species protection provisions affecting the site, and potentially the surrounding area, concerned. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the development management process. It is considered best practice that screening to determine the presence of protected species should be carried out by a competent ecologist on the basis of data provided by the relevant Local Environmental Record Centre.<sup>123</sup>

- 6.4.23 Developments are always subject to the legislation covering European protected species regardless of whether or not they are within a designated site. Proposals for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitats Directive. A derogation may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving 'public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'. Derogations are granted by a licence issued by NRW who should notify planning authorities when a licence application has been granted. Planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted derogations in relation to European protected species, planning authorities must take the above three requirements for derogation into account when considering development proposals where a European protected species is present.

#### Trees, Woodlands and Hedgerows

- 6.4.24 Trees, woodlands, copses and hedgerows are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make a valuable wider contribution to landscape character, sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade and shelter, a sustainable energy source, wider landscape benefits such as air and diffuse pollution interception, and building materials. The particular role, siting and design requirements of ~~urban~~ trees in providing health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking<sup>124</sup>.
- 6.4.25 Planning authorities ~~should must~~ protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial ~~and identified~~ green infrastructure function. Planning authorities should consider the importance of native woodland and valued trees, and should have regard, ~~where appropriate~~, to local authority tree strategies or SPG. Planning authorities should adopt appropriate, time sensitive, minimum tree canopy cover targets for their authority area to guide the protection and planting of trees. The Green Infrastructure Assessment and tools such as NRW's Tree Cover in Wales' Towns and Cities study and Forest Research's i-Tree Eco tool will help establish a baseline of canopy cover and guide the identification of appropriate and measurable canopy targets (insert footnote link - Natural Resources Wales / Urban trees). Tools to help with design and species choice in urban areas are also available (insert footnote).

[New paragraph] Where trees, woodland and hedgerows are present, their retention should be identified within planning applications. The provision of services to the application site should also avoid the loss of trees, woodlands or hedges and should be considered as part of the development proposal.

Permanent removal of trees, woodland ~~and hedgerows~~ should will only be permitted where it would achieve significant and clearly defined public benefits. Welsh native tree species, characteristic of the local area, provide a strong ecosystem resilience function, providing resources for local wildlife, particularly other native plants and species. They help to define our cultural heritage and landscape creating a strong sense of place and connection to our past. Conifer woodlands are important for the provision of timber and carbon capture, and also provide some biodiversity benefit and landscape character. Where ~~woodland or individual or groups of~~ trees are removed as part of a proposed scheme, developers will be ~~expected~~ required to provide compensatory planting (reflecting the scale and species mix which has been lost), this must be onsite and at a minimum ratio of at least 3 trees of a similar type planted for every 1 lost. Where a woodland or a shelterbelt area is lost as part of a proposed scheme, the compensation planting must be at a scale, design and species mix reflective of that area lost. In such circumstances, the planting rate must be at a minimum of 1600 trees per hectare for broadleaves, and 2500 trees per hectare for conifers.

- 6.4.26 Ancient woodland ~~and~~, semi-natural woodlands and individual ancient, veteran and heritage trees are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees and woodlands ~~should are to~~ be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and required public benefits that can be clearly defined ~~clearly defined public benefits~~; this protection ~~should must~~ prevent potentially damaging operations and their unnecessary loss. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW. Planning authorities should also have regard to the Ancient Tree Inventory and use it to ensure the protection of trees and identify opportunities for more planting as part of the Green Infrastructure Assessment, particularly in terms of canopy cover.
- 6.4.27 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally- specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs)<sup>125</sup>. They should also be incorporated into Green Infrastructure Assessments and plans.

## **Consequential change for section 6.6: Water and Flood Risk**

As a result of changes to Section 6.4 it is considered that paragraphs 6.6.1, 6.6.5 and 6.6.6 should be amended as follows.

### **6.6 Water and Flood Risk<sup>132</sup>**

- 6.6.1 As well as a direct requirement for life, well planned water services provide a range of benefits and services for society. The water industry itself is a source of green jobs and water services support energy and food production, recreation and tourism and connect homes and businesses to the infrastructure networks upon which they depend. As well as this existing natural ecosystems and nature based solutions play an important role in providing water quality and flood management.
- 6.6.5 The Welsh Government aims to secure the provision of water services whilst minimising adverse impacts on the environment, amenity, health and communities, in light of the consequences of climate change. Development which is poorly designed or badly located can exacerbate problems associated with resource depletion, exposure to surface water flooding and diffuse pollution. The planning system should:
- protect and improve water resources and quality by promoting and encouraging increased efficiency and demand management of water as part of new developments, particularly in those areas

where water resources may be under pressure or may not be available;

- ensure that the infrastructure networks, including nature based solutions, on which communities and businesses depend is adequate to accommodate proposed development so as to minimise risk to human health and the environment and prevent pollution at source;
- ensure sustainable drainage systems are an integral part of design approaches for new development; and
- ensure the protection of the quantity and quality of surface and ground water supplies is taken into account as part of development proposals.

6.6.6 The ability of the planning system to protect water features and foster sustainable water management as key attributes of attractive and resilient places to live is closely aligned with securing the multiple benefits of green infrastructure. Ensuring the implementation of nature based solutions is a key preference and the multiple benefits of protecting river corridors should be maximised. The identification of riparian buffer zones should be a key output of green infrastructure assessments because they will have a positive benefits in both reducing diffuse pollution and as part of securing a net benefit for biodiversity and improving the attributes of ecosystem resilience. Embracing integrated approaches should make a contribution toward achieving the requirements imposed by EU Water Framework Directive<sup>133</sup> and ensuring the restoration of protected habitats along with Welsh Government policy for the integrated planning and management of water both in urban and rural areas and at a catchment scale.

### **Consequential Change for Section 5.14: Minerals**

As a result of changes to Section 6.4 it is considered that paragraph 5.14.37 should be amended as follows.

5.14.37 Minerals proposals within or likely to significantly affect Sites of Special Scientific Interest and National Nature Reserves, potential and classified Special Protection Areas, designated, candidate or proposed Special Areas of Conservation or Ramsar sites ~~must be carefully examined~~should not take place except in exceptional circumstances. If the proposal would adversely affect the integrity of the site, taking into account advice from NRW, and conditions would not remove this effect, planning permission should not be granted, unless alternative supplies cannot be made available at reasonable cost, there is no scope for meeting the need in some other way and regard has been paid to considerations such as the need for the development in terms of UK mineral supply and the impact on the local economy of permitting the development or refusing it. Minerals development in non-statutory nature conservation sites should be carefully assessed to determine whether the environmental and amenity impact is acceptable or not relative to the benefits to be gained from mineral development.

### **Unrelated change for the purposes of accuracy**

The following change is proposed to paragraph 6.3.10 because it is not accurate to definitively suggest that the meaning of major development can only be related to that which is 'more national than local' in character. As drafted the current paragraph fails to properly reflect the statutory purposes of a National Park and the ability of the National Park Authority (NPA) to protect them. It is considered that NPAs need to be able to decide what constitutes 'major' depending on local context and the particular application in question and therefore paragraph 6.3.10 is proposed to be amended as follows.

6.3.10 In National Parks or AONBs, special considerations apply to major development proposals ~~which are more national~~<sup>117</sup> National' in this context means UK, than local in character. Major developments should not take place in National Parks or AONBs except in exceptional circumstances. This may

arise where, after rigorous examination, there is demonstrated to be an overriding public need, refusal would be severely detrimental to the local economy and there is no potential for locating the development elsewhere or meeting the need in some other way. Any construction and restoration must be carried out to high environmental standards. Consideration of applications for major developments should therefore include an assessment of:

- the need for the development, in terms of national considerations and the impact of permitting it or refusing it upon the local economy;
- the cost of and scope for providing the development outside the designated area or meeting the need for it in some other way; and
- any detrimental effect on the environment and the landscape, and the extent to which that could be moderated and/or mitigated.



OPEN CONSULTATION

# **Targeted policy changes to Planning Policy Wales on Net benefit for Biodiversity and Ecosystems Resilience (incorporating changes to strengthen policy on Sites of Special Scientific Interest, Trees and Woodlands and Green Infrastructure)**

We want your views on draft policy changes to Planning Policy Wales on net benefit for biodiversity and ecosystems resilience.

**First published:** 9 March 2023

**Last updated:** 9 March 2023

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Date of issue: 09 March 2023

Action required: Responses by 31 May 2023

## Overview

This consultation is seeking your views on proposed changes to Chapter 6 of Planning Policy Wales primarily on net benefit for biodiversity and ecosystem resilience. There are some additional changes which are consequential for other chapters or which not fully related to the main purpose of the consultation and these are documented in the consultation document as supplemental to the main changes.

## How to respond

Please respond to this consultation by using the response form.

Responses can be submitted in a number of ways:

**Online [GOV.WALES]**

Email: [planconsultations-d@gov.wales](mailto:planconsultations-d@gov.wales)

Post:

Proposed Changes to PPW on Net benefit for Biodiversity and Ecosystems Resilience  
Planning Policy Branch,  
Welsh Government,

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Cathays Park,  
Cardiff  
CF10 3NQ

When responding please state whether you are responding in a personal capacity or are representing the views of an organisation.

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

## Contact details

For further information:

email: [planningpolicy@gov.wales](mailto:planningpolicy@gov.wales)

Tel: 0300 025 3711

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make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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- to (in certain circumstances) object to or restrict processing

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Data Protection Officer:

Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail: [DataProtectionOfficer@gov.wales](mailto:DataProtectionOfficer@gov.wales)

The contact details for the Information Commissioner’s Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF

Tel: 01625 545 745 or 0303 123 1113

Website: [Information Commissioner’s Office](https://ico.org.uk/)

## Introduction

At the United Nations COP15 Biodiversity Summit leaders around the world

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have agreed a new ambitious Global Biodiversity Framework to put the world on a path to restoring nature by the end of the decade. In attending COP15, Wales added its voice by pressing for urgent transformative action across the whole of society. We emphasised the key role that subnational governments, cities and local authorities play in maintaining and enhancing biodiversity and in delivering actions across planning, implementation, and monitoring. Now we must step up and ensure we deliver to realise our ambitions.

In support of COP15, we recently completed our own **Biodiversity Deep Dive** and agreed a set of collective actions to be taken in Wales to protect and effectively manage some of our most precious habitats and support the recovery of nature.

Planning Policy Wales was fully revised in 2018 to reflect the Well-being of Future Generations (Wales) Act 2015 and to support the implementation of the Environment (Wales) Act 2016 through the planning system **Planning Policy Wales (PPW)**.

In autumn 2019 a Chief Planning Officer letter provided further guidance on the **application of the Environment (Wales) Act Section 6 duty with regard to securing enhancement** which stated that if this could not be achieved, permission for the development should be refused.

A further Chief Planning Officer letter was published in December 2022 to highlight the essential role that the planning system must play in meeting the challenges laid down by COP15, the Deep Dive recommendations and in fulfilling the Section 6 duty in Wales. **COP15, biodiversity deep dive, section 6 duty and the planning system**. The letter also signposted that proposed changes to PPW would be forthcoming.

# What are we consulting on?

The primary purpose of this consultation is a targeted update of policy in section 6.4 of PPW relating to net benefit for biodiversity and the resilience of ecosystems and to strengthen policy on designated sites, in particular Sites of Special Scientific Interest, and on trees and woodlands. This requires changes to section 6.2 on Green Infrastructure given its close alignment with securing the maintenance and enhancement of biodiversity and resilience of ecosystems.

As a result of these primary changes, there are consequential changes to section 5.14 Minerals (paragraph 5.14.37) and Section 6.6 Water and Flood Risk (paragraphs 6.6.1, 6.6.5 and 6.6.6) and the introductory section of Chapter 6.

An unrelated change will be made to paragraph 6.3.10 on National Parks for the purposes of accuracy.

Comments are not requested on any other aspects of PPW at this time except those tracked as changes in the accompanying proposed changes document.

Annex 1 to this consultation document on 'Achieving a Net Benefit for Biodiversity – Draft Principles for Planning Applicants' is attached for background information and comments are not requested on this document at this time. This document has informed the changes to section 6.4 in the proposed changes document and is provided for context only.

In summary, the proposed changes include:

## The following primary changes:

**Section 6.4** various changes are proposed to this section on net benefit and the resilience of ecosystems incorporating the draft principles contained in Annex 1

to this consultation document. The stepwise policy has been redrafted; policy in relation to designated sites has been strengthened; the text in the orange box on the 'Implementing the Section 6 Duty and the DECCA framework' has been updated; and policy on trees and woodland has been strengthened.

**Section 6.2** changes are proposed to this section in light of the changes being proposed in section 6.4 on net benefit for biodiversity and the resilience of ecosystems. The opportunity is taken to provide greater direction on securing green infrastructure. A green infrastructure statement is required to accompany planning applications and in the absence of a local authority approach, including supplementary planning guidance, the Building with Nature Standards should be applied as a checklist to ensure appropriate consideration has been given. Accreditation under the Building with Nature Standards is recommended wherever possible.

## **The following consequential changes:**

**Section 5.14 Minerals - paragraph 5.14.37** to align this paragraph with the proposed changes to sites designated for biodiversity reasons.

**Section 6.6 Water and Flood Risk – paragraphs 6.6.1, 6.6.5 and 6.6.6:** A number of small wording changes are proposed to better reflect net benefit and the resilience of ecosystems along with greater recognition of nature based solutions and the benefit of taking complementary action to address pollution and the restoration of riverine habitats.

**Introductory paragraphs to Chapter 6** various changes are made which reflect the primary changes made to section 6.4.



## One unrelated change for the purposes of accuracy:

**Paragraph 6.3.10 National Parks:** a small change is needed to properly reflect the statutory purposes of a National Park and the ability of the National Park Authority (NPA) to protect them. It is considered that NPAs need to be able to decide what constitutes ‘major’ depending on local context and the particular application in question. The deletion of text is proposed to rectify this.

## Additional information on the use of biodiversity metrics

Whilst the proposed changes do not refer explicitly to the issue of a biodiversity metric and such an approach is not in its entirety supported by Welsh Government, there is a recognition that metrics may have a role to play in certain circumstances, but only where they reflect the full Section 6 duty contained in the Environment Act (Wales) 2016, including the ‘DECCA’ framework (see paragraph 6.4.9 of the proposed changes document).

To this end, the benefits of a standardised and transparent methodology are acknowledged, along with the issues and drawbacks of attempting to apply a ‘one-size-fits-all’ solution to a highly complex system. However, a method to measure whether a net benefit for biodiversity can be, or has been achieved, either already in existence or a bespoke measure, would be desirable - in conjunction with the rigorous application of the policies contained in section 6.4 of PPW (as amended by the proposed changes document).

Welsh Government therefore propose to work with Natural Resources Wales and other stakeholders to develop a common approach to measure whether a net benefit will be achieved on site (i.e. the end result will be better than the starting state). Such a mechanism will provide clarity for what is required and

what can be done to achieve a net benefit for biodiversity and enhance the resilience of ecosystems. Further guidance will be forthcoming on this matter and will operate within the framework of section 6.4 and will use expert judgement to quality assure the approach.

## **Annex 1: Achieving a Net Benefit for Biodiversity – Draft Principles for Planning Applicants**

These principles were developed by a Task and Finish group under the Nature Recovery Action Plan for Wales' Planning and Biodiversity Forum in 2019-20. The group included representatives from local planning authorities, NRW, Wales Environment Link, the local records centre, PEDW and Welsh Government. It was intended that these principles be fed into Planning Policy Wales at an opportune time. The current consultation on proposed changes aims to do this.

### **Introductory notes**

- A net benefit for biodiversity (NBB) is defined as, 'the concept that development should leave biodiversity and ecosystems in a better state than before, through securing long term, measurable and demonstrable benefit, primarily on site.'
- Under Section 6 of the Environment (Wales) Act a public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.
- Biodiversity is defined as the diversity (variety and abundance) of living organisms, whether at the genetic, species or ecosystem level. In particular, under Section 6(5)a, in complying with the duty a public authority must have regard to the Section 7 biodiversity lists of species and habitats of principal

importance for Wales.

- The Act not only requires consideration of biodiversity in terms of the species and habitats present, but also ecosystems and in particular the resilience of those ecosystems.
- The Convention on Biological Diversity defines ecosystems as “a dynamic complex of plant, animal and micro-organisms and their non-living environment interacting as a functional unit”. The key feature of ecosystems is that they are fully integrated systems with ‘emergent properties’ arising from interactions between the living and non-living elements of which they are composed.
- Ecosystem resilience is defined as “the capacity of ecosystems to deal with disturbances, either by resisting them, recovering from them, or adapting to them, whilst retaining their ability to deliver services and benefits now and in the future”.
- To maintain and enhance the resilience of ecosystems involves consideration and action around the following attributes of ecosystems as set out under the DECCA Framework -
  - **Diversity** between and within ecosystems; not only biological but also geological and physical.
  - **Extent**; the bigger an ecosystem extends, without fragmentation, the more resilient it is likely to be.
  - **Condition** of ecosystems (including their structure and functioning); the underpinning supporting services of ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services.
  - **Connectivity** - between and within ecosystems; facilitates the movement of genes, species and ecosystem components such as water across landscapes, allowing ecosystems to function effectively and to adapt spatially.
  - **Adaptability** of ecosystems. As an outcome of the above, the overall adaptability of ecosystems invites specific consideration of the adaptive cycles which many ecosystems undergo. The key question here is

whether the ecosystem in question will adapt and change in the desired direction given future environmental, and socio economic changes and demands such as climate change.

## Why is ecosystem resilience important?

Resilience is core to the new, integrated approach to the environment, which is based on the flow from ecosystems, through ecosystem services and benefits, to well-being. Sustainable Management of Natural Resources (SMNR), is the means by which the Welsh environment is managed to achieve this flow, and resilience is the property of ecosystems that allows the flow to persist in the face of impacts and change.

- The outcomes of applying the NBB principles should be that:
- Biodiversity and ecosystem resilience is maintained and enhanced,
- A biodiversity uplift on site is secured over and above that required to mitigate or compensate for a negative impact, and
- Developments are sustainable, ecologically resilient, healthy, and deliver multiple benefits for the well-being of local people.

The stepwise process (PPW para 6.4.21) and these principles must be applied at the earliest stages of any development planning, aiming to maintain and enhance as much biodiversity as possible, and moving away from the assumption that damage can be compensated for, either on or off-site. Evidence showing how the stepwise approach has been followed together with these principles will be required.

Through the application of these principles and the step-wise process the overriding aim must be to deliver an enhancement.

## Pre application principles - assess and plan

**1:** Early surveys and research should establish **the baseline state** of biodiversity and ecosystem resilience on site and in the local context, taking into account the site's contribution to resilient ecological networks through its diversity, extent, connectivity and condition and the provision of ecosystem services (see PPW para 6.4.9). For householder scale applications in particular, advice should be provided to potential applicants outlining expectations regarding information required to accompany an application. It is important that the application of these principles are proportionate and relate to the significance of any potential impact or contribution that positive measures could make to local biodiversity and ecosystems. In every case however, understanding the ecological context of a development will be essential.

The local Green Infrastructure Assessments (GIAs) and Area Statements should be referred to in order to provide this important spatial context, as well as assisting in the identification of pro-active measures and enhancement opportunities to help integrate the proposal successfully into its location.

**2:** Any pre-development site clearance (including disruptive site investigations) will lead to refusal of planning permission **OR** where a site has been cleared the site condition is deemed to have been as it was before any site investigations or clearance took place. NBB must be achieved from that point.

**3.** All development must aim to deliver a net benefit for biodiversity (and ecosystem resilience) from the baseline state (proportionate to the scale and nature of the development proposed). Even if the biodiversity value has been maintained, there should still be a pro-active process to look for and secure enhancement through the design and implementation of the development.

**4:** The net benefit for biodiversity must be achievable within as short a time as possible, and management must be secured, for the long-term.

## Applying the step-wise approach - avoid

**5:** First, aim to maintain biodiversity by avoiding loss or damage to biodiversity in its widest sense (i.e. the variety of species and their abundance). Consider whether the development is really needed, whether it could be located elsewhere, sited or designed differently, or incorporate or be replaced in part by a nature based solution.<sup>[1]</sup>

**6:** Sites that include SSSIs, SINCs, protected species and habitats, especially those that are irreplaceable<sup>[2]</sup> must be safeguarded. (Refer to PPW 6.4.11 – 6.4.20 for all designated sites guidance.)

## Minimise

**7:** When all options for avoiding loss or damage to biodiversity have been exhausted, development should seek to minimise the initial impact on biodiversity and ecosystems on the site by:

- maintaining the largest possible area of existing habitat supporting biodiversity and functioning ecosystems, particularly Section 7 priority habitats and species where present, by minimising development size and appropriate orientation on site,
- retaining existing features (e.g. trees, hedgerows, ponds), and
- using innovative solutions to avoid damage and maintain existing biodiversity features and ecosystems.

## Mitigate

**8:** Where after measures to minimise impact, biodiversity and ecosystems could still be damaged, the proposed development should aim to mitigate that damage

– ‘like for like’ in the case of priority habitats and species and in every case seek to build ecosystem resilience within the site and where possible the wider area. Having mitigated loss, a scheme of enhancements should be provided to ensure a net benefit for biodiversity. These could include on-site habitat creation and/or could be part of the development itself using biodiverse nature based solutions such as SUDS, green roofs, woodland expansion, and wetland creation.

Improving ecosystem resilience through the DECCA attributes, particularly improving connectivity to the immediate surroundings would be a key contribution to on-site mitigation and enhancement.

## **Compensate – As a last resort**

**9:** When all other options have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes, offsite compensation for unavoidable damage must be sought.

**10:** Compensation measures should be guided by place-based evidence and the priorities as set out in SoNaRR, the Area Statement and/or Green Infrastructure Assessment and must be secured and established far enough in advance before the loss of biodiversity on site.

**11:** Appropriate compensation measures or tools could include:

- biodiversity enhancements with demonstrable ecological relationship to the site,
- translocation and restoration of site features, habitats and species, and/or
- contribution to an approved levy scheme or habitat bank.

Compensation should be at least ‘like for like’ in terms of type, quality and extent and be context appropriate - guided by the documents referred to above and appropriate ecological advice from NRW and/or a competent CIEEM registered



ecologist.

**[1]** References to further guidance e.g. Building with nature/Enhancements guidance note

**[2]** Habitat that once lost cannot be recreated elsewhere within a reasonable timeframe e.g. ancient woodlands, active peatland and limestone pavement

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